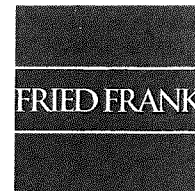


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January 7, 2013

VIA HAND DELIVERY

The Honorable Richard M. Berman
United States District Judge
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: American Civil Liberties Union, et al. v. Dep't of Homeland Sec., et al., Case No. 11-cv-3786 (RMB)

Dear Judge Berman:

Counsel to the plaintiffs, American Civil Liberties Union and American Civil Liberties Union Foundation (collectively, the "ACLU"), in the above-captioned action and Counsel to the defendants, the Department of Homeland Security and the Immigration and Customs Enforcement agency ("ICE") (collectively, the "Defendants" and, with the ACLU, the "Parties"), hereby submit this joint letter to apprise Your Honor of the scope of the remaining dispute regarding ACLU's Freedom of Information Act ("FOIA") request for ICE's Post-Order Custody Review ("POCR") files.

The Defendants previously selected a random POCR sample from its files and redacted portions of that file pursuant to asserted FOIA exemptions (*see* Exhibit A, attached hereto). As Your Honor recalls, the Parties then appeared before Your Honor at a hearing on December 20, 2012, at which time Your Honor ordered that the Parties submit a joint letter by January 7, 2013 that summarized the redacted data points in the

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sample POCR file by grouping those data points into more convenient categories or “buckets.” In accordance with this order, the parties provide the following information:

First, the redacted boxes in Exhibit A indicate locations where the Defendants claim that information is exempt from disclosure pursuant to a specific FOIA exemption. The text within each black box in Exhibit A indicates which specific FOIA exemption or exemptions are claimed by the Defendants. For example, the information after “Alien’s Name” on page one lists “(b)(6)(7),” which corresponds to the exemptions set forth in 5 U.S.C. § 552(b)(6) and 5 U.S.C. § 552(b)(7).

Second, discussions between counsel for the Parties resulted in a reduction of the number of redactions or exemptions at issue. There currently remain four FOIA exemptions¹—constituting thirty-four separate data points—which have been numbered in Exhibit A, as indicated by the thirty-four circled numbers in that document.

Lastly, per the Court’s instructions, the disputed points of information in Exhibit A are further grouped into seven broad categories in the table below:

Information	Box Number(s) (1-34)	Page Numbers
Agency Comments or Discussion	1, 9, 15, 16, 17, 21, 22, 27, 32, 33, 34	001, 007, 010, 011, 013, 015 016, 019, 021, 022
Detainee Facility	2, 5,	002, 004
Arrival Details (dates, location)	3, 4	004
Immigration/Criminal History	6, 7, 8	005, 006
Travel Document Status/History	10, 11, 20, 25, 26, 30, 31	008, 009, 015, 018, 021
Medical Concerns/Issues	12, 18, 23, 28	009, 015, 018, 021
Special Circumstances Concerns (<i>i.e.</i> , national security)	13, 14, 19, 24, 29	010, 015, 018 021

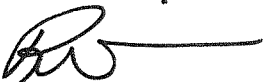
• ¹ The remaining FOIA exemptions are 5, 6, 7(c) and 7(E). *See* 5 U.S.C. § 552(b)(5) - (7)(E).


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We hope that this letter assists the Court in understanding the remaining POCR-related disputes between the Parties, and we look forward to appearing before Your Honor on January 15th to discuss this letter and a proposed summary judgment schedule.

If Your Honor has any questions about this matter, please do not hesitate to contact us.

Respectfully submitted,


Richard G. Leland


AUSA Louis A. Pellegrino